

Draftsperson's Patent Drawing Review, PTO 948, is acknowledged. Upon issuance of a Notice of Allowance, formal drawings will be submitted.

In paragraph 1 of the Office Action, the Examiner has objected to the drawings for failure to show every feature of the invention, specifically a "mounting member" referred to in claim 1. The "mounting member" is also similarly referred to in claim 7. The invention is a pad adapted to receive a mounting member; the mounting member is not a feature of the invention. Claims 1 and 7 have been modified accordingly.

In paragraph 2 of the Office Action, the Examiner has requested changes in the specification to eliminate certain informalities. Applicant has made the recommended changes and others. Support for the additional changes made to the specification can be found within the specification and drawings. References to "post" have been changed to either "mounting member" or "member" to be consistent with the elements of the invention as identified in the claims. The clarification as to curvature of planar surface 26 is based on Figure 2 where it is clearly shown that upon engagement of the resilient pad to a tree, planar surface 26 clearly bends to adopt a curvature. Applicant believes that none of the changes to the specification introduce new matter.

In paragraph 4 of the Office Action, the Examiner has rejected claims 1-2, 5 and 7 under 35 U.S.C. 103(a) as being unpatentable over Kilby, US Patent 3,667,797. The Kilby reference is directed to a cushioning device for the clamping jaws of a tree shaker. The device employs a cushioning device 10 having a "pad of substantially solid relatively hard rubber or the like." Col. 2, lines 51-2. The device also has a "plurality of elongated apertures" there through. Col. 2, line 63. It is these apertures that deform to permit the pad to conform to the tree. Col. 2, lines 68-9. The pads are confined within mounting plate 56 and an element 20, further supporting that the pads must be compressed to conform to the tree.

Applicant respectfully submits that the Examiner has failed to make a prima facie case of obviousness as the prior art, Kilby, fails to teach all of the limitations in Claims 1 or 7. Specifically, the Examiner has failed to show any reference that

*not in Applicant's  
or claims*

teaches or suggests the "resilient web" feature of Applicant's invention. The "resilient web" of the present invention means that the web bends to conform to the curvature of the tree, not the web can be compressed such that it conforms to the curvature of the tree. See Figure 2. The web of the present invention is much like a rubber band, both surfaces upon contact of the inner surface with the tree bending to conform to the curvature of the tree. Applicant respectfully submits that the teachings of Kilby, a compressible pad, do not render the present invention as claimed in amended claims 1 and 7 obvious, and that claims 1 and 7 are allowable as amended. Since claims 2-6 depend from claim 1 and without addressing their individual patentability, they too are in condition for allowance.


In paragraph 5 of the Office Action, the Examiner has rejected claims 1-2, 5 and 7 under 35 U.S.C. 103(a) as being unpatentable over Kilby in view of SU 1,329,666. The Examiner states '666 "uses longitudinal bores and mounting members." As stated above, Applicant believes that Kilby does not teach the "resilient web" of the present invention. '666 as a reference, or Kilby in view of '666, does not alter that conclusion. Applicant respectfully submits that for the reason stated above claims 1 and 7 are allowable as amended. As claims 2-6 depend from claim 1 and without addressing their individual patentability, they too are in condition for allowance.

In paragraph 6 of the Office Action, the Examiner has rejected claims 2 and 3 as being unpatentable over Kilby in view of Favor. As stated above, Applicants believe claim 1 is allowable as amended. As claims 2 and 3 depend therefrom and without addressing their individual patentability, claims 2 and 3 are therefore in condition for allowance.

Based on the foregoing, Applicant respectfully submits that claims 1-7 are now in condition for allowance. An early action to that effect is earnestly solicited. Should any matter remain unresolved after entry of this amendment, the Applicant

respectfully requests the Examiner contact the Applicant's representative at the phone number listed below. Applicant believes no fee is due on this response; however, please charge any additional deficiencies in fees that are associated with this filing to the identified deposit account.

Respectfully submitted,

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